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EMPLOYMENT LAW ALERT | NIXON PEABODY LLP

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## Employers must now use updated FCRA “Summary of Rights” forms

By Matthew J. Frankel

In May 2018, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act (the “Act”), which (among other provisions) amended the Fair Credit Reporting Act (“FCRA”) to require consumer reporting agencies to provide “national security freezes” free of charge to consumers and to provide other protections against identity theft. The Act also requires additional prescribed “security freeze” language to appear in the familiar FCRA “Summary of Rights” forms issued by the Consumer Financial Protection Bureau (“CFPB”).

For employers who conduct background checks on their applicants and employees, the FCRA requires (among many other things) that the “Summary of Rights” form be provided to such applicants and employees before an employer takes adverse action (e.g., revocation of a conditional job offer, demotion or termination) based in whole or in part on information contained in a background check report. On September 12, 2018, the CFPB issued updated FCRA forms (in both English and Spanish) that include the additional “security freeze” language mandated by the Act. Links to those updated forms are available [here](#). The Act provides that the updated forms must be used effective September 21, 2018. Accordingly, employers that have not done so already should promptly download the CFPB’s updated forms to replace their existing forms, and should make sure that going forward, updated forms are used in connection with any pre-adverse action process, consistent with the FCRA’s exacting requirements.

Nixon Peabody’s attorneys have significant experience advising employers and consumer reporting agencies regarding FCRA compliance, and litigating claims of FCRA non-compliance. Please do not hesitate to reach out with any questions about this Alert or other FCRA compliance or litigation issues.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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